

(PRE-FILED)

By: **Chairman, Education, Health, and Environmental Affairs Committee**
(By Request - Departmental - Transportation)

Requested: November 3, 2003

Introduced and read first time: January 14, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Ethics Law - Architectural and Engineering Services - Restrictions on**
3 **Participation in Procurement**

4 FOR the purpose of clarifying that certain design activities do not disqualify an
5 individual from participating in or assisting others in participating in certain
6 procurements; providing for the effective date of certain provisions of this Act;
7 and providing for the termination of certain provisions of this Act.

8 BY repealing and reenacting, with amendments,
9 Article - State Government
10 Section 15-508
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2003 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - State Government
15 Section 15-508
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2003 Supplement)
18 (As enacted by Chapter 482 of the Acts of the General Assembly of 2002)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - State Government**

22 15-508.

23 (a) An individual or a person that employs an individual who assists an
24 executive unit in the drafting of specifications, an invitation for bids, a request for
25 proposals for a procurement, or the selection or award made in response to an
26 invitation for bids or request for proposals may not:

1 (1) submit a bid or proposal for that procurement; or

2 (2) assist or represent another person, directly or indirectly, who is
3 submitting a bid or proposal for that procurement.

4 (b) For purposes of subsection (a) of this section, assisting in the drafting of
5 specifications, an invitation for bids, or a request for proposals for a procurement does
6 not include:

7 (1) providing descriptive literature such as catalogue sheets, brochures,
8 technical data sheets, or standard specification "samples", whether requested by an
9 executive agency or provided on an unsolicited basis;

10 (2) submitting written comments on a specification prepared by an
11 agency or on a solicitation for a bid or proposal when comments are solicited from two
12 or more persons as part of a request for information or a prebid or preproposal
13 process;

14 (3) providing specifications for a sole source procurement made in
15 accordance with § 13-107 of the State Finance and Procurement Article;

16 (4) providing architectural and engineering services for programming,
17 master planning, or other project planning services, INCLUDING PRELIMINARY
18 DESIGN SERVICES THAT INVOLVE NO CONSTRUCTION PHASE RESPONSIBILITIES; or

19 (5) providing specifications for an unsolicited proposal procurement
20 made in accordance with § 13-107.1 of the State Finance and Procurement Article.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
22 read as follows:

23 **Article - State Government**

24 15-508.

25 (a) An individual or a person that employs an individual who assists an
26 executive unit in the drafting of specifications, an invitation for bids, a request for
27 proposals for a procurement, or the selection or award made in response to an
28 invitation for bids or request for proposals may not:

29 (1) submit a bid or proposal for that procurement; or

30 (2) assist or represent another person, directly or indirectly, who is
31 submitting a bid or proposal for that procurement.

32 (b) For purposes of subsection (a) of this section, assisting in the drafting of
33 specifications, an invitation for bids, or a request for proposals for a procurement does
34 not include:

1 (1) providing descriptive literature such as catalogue sheets, brochures,
2 technical data sheets, or standard specification "samples", whether requested by an
3 executive agency or provided on an unsolicited basis;

4 (2) submitting written comments on a specification prepared by an
5 agency or on a solicitation for a bid or proposal when comments are solicited from two
6 or more persons as part of a request for information or a prebid or preproposal
7 process;

8 (3) providing specifications for a sole source procurement made in
9 accordance with § 13-107 of the State Finance and Procurement Article; or

10 (4) providing architectural and engineering services for programming,
11 master planning, or other project planning services, INCLUDING PRELIMINARY
12 DESIGN SERVICES THAT INVOLVE NO CONSTRUCTION PHASE RESPONSIBILITIES.

13 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
14 shall take effect on the taking effect of the termination provision specified in Section
15 4 of Chapter 482 of the Acts of the General Assembly of 2002. If that termination
16 provision takes effect, Section 1 of this Act shall be abrogated and of no further force
17 and effect. This Act may not be interpreted to have any effect on that termination
18 provision.

19 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the
20 provisions of Section 3 of this Act, this Act shall take effect October 1, 2004.